



July 9, 2019

VIA E-FILING

Jonathan P. Nase

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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v. Hidden Valley Utility Services, L.P. (Wastewater and Water); Docket Nos. R-2018-3001307 and R-2018-3001306

Motion to Extend the Time Period for Completing an Independent Financial Audit

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Motion of Hidden Valley Utility Services, L.P. to Extend the Time Period for Completing an Independent Financial Audit. Copies are being served as indicated on the enclosed Certificate of Service.

Thank you for your attention to this filing. Should you have any questions or concerns, please contact me.

Sincerely,

COZEN O'CONNOR

By: Jonathan P. Nase
Counsel for *Hidden Valley Utility Services, L.P*

JPN:kmg
Enclosure

cc: Honorable Mark A. Hoyer
Honorable Katrina L. Dunderdale
Per Certificate of Service
James M. Kettler

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|--|---|------------------------------|
| Pennsylvania Public Utility Commission, et al. | : | |
| | : | Docket No. R-2018-3001306, |
| v. | : | R-2018-3001307 <i>et al.</i> |
| | : | |
| Hidden Valley Utility Services, L.P | : | |

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Motion to Extend the Time Period for Completing An Independent Audit**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL:


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Counsel for *Hidden Valley Foundation Inc.*

Dated: July 9, 2019



Jonathan P. Nase, Esquire
Counsel for *Hidden Valley Utility Services, L.P.*

VERIFICATION

I, James Ketterer hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: July 9, 2019

James Ketterer

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2018-3001307
 :
 Hidden Valley Utility Services, L.P. – :
 Wastewater :

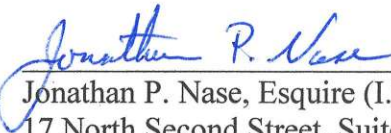
and

Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2018-3001306
 :
 Hidden Valley Utility Services, L.P. – Water :

NOTICE TO PLEAD

TO: Parties at Docket Nos. R-2018-3001307 and R-2018-3001306

Pursuant to 52 Pa. Code §§ 1.15(a)(1) and 5.103, you are hereby notified that Hidden Valley Utility Services, L.P. (“Hidden Valley”) has filed a Motion to Extend the Time Period for Completing an Independent Financial Audit at the above-referenced dockets, to which you may file an answer or objection within twenty (20) calendar days. Your failure to answer will allow the Commission to rule on the Motion without a response from you, thereby requiring no other proof. All pleadings such as an Answer to this Motion must be filed with the Secretary of the Pennsylvania Public Utility Commission at P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the undersigned counsel for Hidden Valley.



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E-mail: jnase@cozen.com

Dated: July 9, 2019

Counsel for *Hidden Valley Utility Services, L.P.*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|--|---|---------------------------|
| Pennsylvania Public Utility Commission | : | |
| | : | |
| v. | : | Docket No. R-2018-3001307 |
| | : | |
| Hidden Valley Utility Services, L.P. – Wastewater | : | |
| | : | |
| and | | |
| | | |
| Pennsylvania Public Utility Commission | : | |
| | : | |
| v. | : | Docket No. R-2018-3001306 |
| | : | |
| Hidden Valley Utility Services, L.P. – Water | : | |

MOTION OF HIDDEN VALLEY UTILITY SERVICES, L.P.
TO EXTEND THE TIME PERIOD FOR
COMPLETING AN INDEPENDENT FINANCIAL AUDIT

NOW COMES Hidden Valley Utility Services, L.P. (Water and Wastewater) (“Hidden Valley” or “Company”), by and through its counsel, Cozen O’Connor, pursuant to 52 Pa. Code §§ 1.15(a)(1) and 5.103, to request that the time period for completing a financial audit for Hidden Valley for the years 2015-2018 be extended for 60 days. Ordering Paragraph 11 of the Opinion and Order entered on March 29, 2019 (the “March 2019 Order”) required that the audit be completed by July 29, 2019. In compliance with Ordering Paragraph 11, Hidden Valley promptly hired an independent financial accounting firm that had not previously provided auditing services to the Company. Nevertheless, at this time, it does not appear that the financial audit will be completed by July 29, 2019. Hidden Valley respectfully requests an additional 60 days in which to complete the audit.

In support thereof, Hidden Valley avers as follows:

I. Background

1. Hidden Valley operates a water utility (Utility Code 210117) and a wastewater utility (Utility Code 230101) in Hidden Valley, Somerset County, Pennsylvania.

2. On April 27, 2018, Hidden Valley filed the instant proceedings, requesting a rate increase for both its water utility and its wastewater utility.

3. Following a public input hearing held on July 27, 2018, extensive discovery, and an evidentiary hearing held on November 16, 2018, Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Katrina L. Dunderdale (the “ALJs”) issued their Recommended Decision on January 25, 2019.

4. In the March 2019 Order, the Commission adopted the ALJs’ Recommended Decision, as modified. Specifically, the Commission granted Hidden Valley a rate increase to cover the costs of operating the water and wastewater systems, but denied any return on equity for either the water or wastewater system.

5. In addition, in Ordering Paragraph 11, the Commission ordered:

That, within one hundred twenty (120) days after the date of entry of this Opinion and Order, Hidden Valley Utility Services, L.P. shall cause to be conducted an independent financial audit of its records from 2015 through 2018 by an outside independent financial accounting firm or office which has not previously provided auditing services to Hidden Valley Utility Services, L.P. Upon completion of the independent financial audit, Hidden Valley Utility Services, L.P. shall file a notice at this docket number and serve a copy of said notice on all Parties to this proceeding stating that the independent financial audit has been completed. Hidden Valley Utility Services, L.P. shall file the independent financial audit with the Commission’s Secretary’s Bureau and the Commission’s Bureau of Technical Utility Services.

6. Hidden Valley construes Ordering Paragraph 11 as requiring the financial audit to be completed within 120 days after entry of the Commission Order (*i.e.*, by July 29, 2019).

7. Promptly after being served with the March 2019 Order, Hidden Valley began efforts to comply with the requirements of the March 2019 Order:

a. On April 16, 2019, Hidden Valley filed corrections to the numerical errors in Appendix A to the Joint Petition for Approval of Non-Unanimous Settlement. Ordering Paragraph 12 required these corrections be filed by June 27, 2019.

b. Hidden Valley identified and retained a rate consultant to review its corrected annual reports for 2015-2018, as required by Ordering Paragraph 9. As required by Ordering Paragraph 9, those corrected annual reports were filed on June 27, 2019.¹

c. On April 23, 2019 (only 25 days after entry of the March 2019 Order), Hidden Valley retained Cooley & Associates, PC, to perform the financial audit required by Ordering Paragraph 11. Cooley & Associates, PC had not previously provided auditing services to Hidden Valley.

8. Hidden Valley has been diligently working with Cooley & Associates, PC to complete the financial audit of Hidden Valley for the period 2015-2018.

9. At this time, it does not appear that the financial audit required by Ordering Paragraph 11 will be completed and filed with the Commission by July 29, 2019.

10. At this time, Hidden Valley believes that the financial audit will be complete on or before Friday, September, 27, 2019.

¹ On July 2, 2019, the Secretary's Bureau notified Hidden Valley that the Company had inadvertently filed two copies of the corrected 2018 annual report for its water utility, but did not file the corrected 2018 annual report for its wastewater utility. On that same day, Hidden Valley filed the corrected 2018 annual report for its wastewater utility.

II. Legal Standard

11. A party may seek relief following the issuance of a final decision pursuant to 66 Pa. C.S. § 703(f) and § 703(g), relating to rehearings, as well as the rescission and amendment of orders. Such requests for relief must be consistent with 52 Pa. Code § 5.572, relating to petitions for relief following the issuance of a final decision.

12. In addition, 52 Pa. Code § 1.15(a)(1) states (in pertinent part, emphasis added):

(a) Extensions of time shall be governed by the following:

(1) Except as otherwise provided by statute, whenever under this title or *by order of the Commission*, or notice given thereunder, *an act is required or allowed to be done at or within a specified time*, the time fixed or the period of time prescribed may, by the Commission, the presiding officer or other authorized person, for good cause be extended upon motion made before expiration of the period originally prescribed or as previously extended.

13. Hidden Valley respectfully submits that, with respect to the modification of a Commission Order establishing a deadline, Section 1.15(a)(1) is more specific than 52 Pa. Code § 5.572(d), concerning Petitions for Amendment generally.

14. It is well-established that specific provisions of statutes or regulations control over more general provisions. 1 Pa. C.S. § 1933.

15. Hidden Valley respectfully submits that its request for a modification of the deadline established in Ordering Paragraph 11 of the March 2019 Order is governed by 52 Pa. Code § 1.15(a)(1).

16. Consequently, the proper procedure for requesting an extension of time to file the financial audit required by Ordering Paragraph 11 is to file a motion pursuant to the regulations at Sections 1.15 and 5.103.

17. Where, as here, the motion for an extension of time is filed before the expiration of the period prescribed, the extension is to be granted for good cause shown.

III. Hidden Valley has Established Good Cause for the Requested Extension

18. Following entry of the March 2019 Order, Hidden Valley promptly identified and retained a financial accounting firm, which had not previously performed auditing services for the Company, to complete the financial audit. This firm was retained 25 days following the entry of the March 2019 Order, leaving 95 calendar days for completion of the audit within the time frame established by Ordering Paragraph 11.

19. Hidden Valley has been diligently working with the auditing firm. The audit, however, has taken longer than anticipated. At this time, due to pre-existing work commitments of the auditors, it does not appear that Cooley & Associates, PC will complete the audit by July 29, 2019.

20. Hidden Valley has made a good faith effort to comply with the Commission's March 2019 Order. As discussed above, Hidden Valley has complied with other deadlines established in the Order. Hidden Valley also promptly identified and retained a satisfactory independent accounting firm that had not previously performed auditing services for Hidden Valley, as required by Ordering Paragraph 11.

21. At the same time that Hidden Valley was working to comply with the March 2019 Order, Hidden Valley was working to comply with the Commission's May 2018 Order in *McCloskey v. Hidden Valley Utility Services, L.P.*, Docket Nos. C-2014-2447138 and C-2014-2447169. Among other things, following the entry of the Commission's March 2019 Order, Hidden Valley entered into a contract for the purchase of a water treatment plant that is expected to address the iron and manganese in Hidden Valley's water. Hidden Valley has been working with engineers to design a building to house the plant and to apply for the necessary water and wastewater permits from the Pennsylvania Department of Environmental Protection ("DEP").

22. Hidden Valley acknowledges that the March 2019 Order discussed the deadline for the financial audit. The ALJs' Recommended Decision recommended a 120-day deadline for filing the financial audit, and Hidden Valley excepted to that recommendation. The Commission denied Hidden Valley's exception. March 2019 Order p. 88.

23. Nevertheless, despite Hidden Valley's good faith efforts to comply with the Commission's Order, the Company does not believe the independent accounting firm will complete the financial audit by July 29, 2019.

24. Hidden Valley is requesting a brief extension (only 60 days). It should be noted that the requested extension would still require Hidden Valley to complete the audit within 180 days after the date of entry of the Commission's Order (*i.e.*, one-half of the twelve-month period that Hidden Valley's exceptions requested for completion of the audit).

25. This is not a case in which a utility has intentionally disregarded the Commission's Order. As discussed above, Hidden Valley has made a good faith effort to comply with the Order. In addition, Hidden Valley is now requesting that the Commission modify the Order so that Hidden Valley will not violate it by filing the audit after the deadline.

26. Extending the deadline for completing the audit will not adversely impact the quality of water or wastewater service received by Hidden Valley's customers.

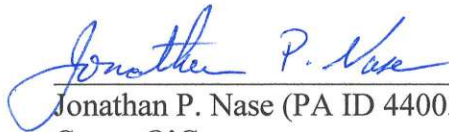
27. The policy of the law should be to encourage utilities to comply with the law, rather than seeking to impose punishment for non-compliance. *Pa. Pub. Util. Comm'n, et al. v. Lake Latonka Water Company*, 1989 Pa. PUC LEXIS 231 *46-49 (Recommended Decision of Administrative Law Judge Herskovitz, Final Order entered October 16, 1989).

IV. Conclusion

WHEREFORE, for the foregoing reasons, Hidden Valley Utility Services, L.P., respectfully requests that Ordering Paragraph 11 of the March 2019 Order be amended as follows:

That, within one hundred ~~eighty (180)~~~~twenty (120)~~ days after the date of entry of this Opinion and Order, Hidden Valley Utility Services, L.P. shall cause to be conducted an independent financial audit of its records from 2015 through 2018 by an outside independent financial accounting firm or office which has not previously provided auditing services to Hidden Valley Utility Services, L.P. Upon completion of the independent financial audit, Hidden Valley Utility Services, L.P. shall file a notice at this docket number and serve a copy of said notice on all Parties to this proceeding stating that the independent financial audit has been completed. Hidden Valley Utility Services, L.P. shall file the independent financial audit with the Commission's Secretary's Bureau and the Commission's Bureau of Technical Utility Services.

Respectfully submitted,



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Date: July 9, 2019